

1 *E-filed on* 10/26/06

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

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12 IN RE CYGNUS TELECOMMUNICATIONS
13 TECHNOLOGY, LLC, PATENT
14 LITIGATION

No. MDL-1423
This Order Applies to All Actions

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16 THIS ORDER RELATES TO:
17 All Actions

C-02-00142 RMW
C-02-00145 RMW
C-02-05437 RMW
C-03-03594 RMW
C-03-03596 RMW
C-03-03378 RMW
C-03-04003 RMW
C-04-03001 RMW
C-04-03365 RMW
C-04-04247 RMW
C-04-04359 RMW
C-06-03843 RMW
C-06-04295 RMW
C-06-06479 RMW

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ORDER REGARDING SUBJECT-MATTER
JURISDICTION

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23 On October 24, 2006, defendants filed a notice of a potential defect in this court's subject-
24 matter jurisdiction and stated that they may move to dismiss on that ground. Any questions
25 regarding subject-matter jurisdiction should be resolved prior to the hearing on claim construction
26 and associated summary judgment motions currently set for November 20. To accommodate the
27 competing concerns of expediency and efficiency presented by this situation, the court would
28 strongly prefer defendants to file any motion to dismiss for lack of subject-matter jurisdiction—and

1 only if one is warranted—jointly by October 31, 2006. If the defendants do file such a motion by
2 that date, plaintiff's reply shall be due November 4, defendants' joint reply shall be due November 6,
3 and a hearing shall be held on the motion on November 10, 2006. Other deadlines previously set by
4 the court shall remain in effect absent further order of the court, except that if defendants move to
5 dismiss for lack of subject-matter jurisdiction by October 31, 2006, the reply briefs currently due
6 November 10, 2006 may be filed the following Monday, November 13. If the defendants move to
7 dismiss for lack of subject-matter jurisdiction after October 31, 2006, the parties shall endeavor to
8 have the motion briefed and heard as soon as possible.

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11 DATED: 10/26/06

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Ronald M. Whyte
RONALD M. WHYTE
United States District Judge

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1 **A copy of this order was mailed on _____ to:**

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7 Counsel for plaintiff is responsible for ensuring that involved attorneys not on the above service list
receive a copy of this order, if necessary, and shall inform the court of any omissions.

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